IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.621 of 2006
Date of Decision: 23.1.2007

The Shahkot Cooperative Agricultural Multipurpose Society Limited
Petitioner

versus

Presiding Officer, Labour Court, Jalandhar and another
Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE BALDEV SINGH

Present: Shri M.S.Kang, Advocate for the petitioner
Shri R.S.Sharma, Advocate for the respondent

Jasbir Singh, J. (Oral)

This writ petition has been filed against award dated 5.5.2005 passed by the Labour Court at Jalandhar, ordering reinstatement of the respondent workman alongwith continuity of service and 40% back wages. It is not in dispute that the award was passed in an ex-parte manner, when the petitioner-management failed to put in appearance before the Labour Court. Counsel for the petitioner states that service was not effected upon the petitioner. No notice was received and the petitioner was ordered to be proceeded ex-parte without any justification. When it came to know about passing of the award, immediately, writ petition was filed. Counsel further submits that respondent workman had submitted his resignation and thereafter, he stopped attending office of the petitioner. We feel that it is a case where the matter is required to be decided on merits. Rules and procedure are handmaid of justice to enhance the same and not to subvert it.

Their Lordships of Supreme Court in Sardar Amarjit Singh Kalra (dead) by L.Rs. And others v. Parmod Gupta (Smt.) dead) by L.Rs. And others (2003) 3 S.C.C. 272, in para 26 of the judgment had opined as under:-

> *"Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice. "*

View extracted above, was reiterated by their Lordships of Supreme Court in N.Balajit v. Virendra Singh and others, (2004) 8 Supreme Court Cases 312, wherein after noting ratio of the judgment, referred to above, in para 10 of the judgment, it was observed that the procedure would not be used to discourage the substantial and effective justice but would be so construed as to advance the cause of justice.

In view of facts mentioned above and ratio of the judgments of Hon'ble Supreme Court, we set aside the award, under challenge and remit the matter to Labour Court at Jalandhar. It will highly be appreciated if the Labour Court decides the matter in an expeditious manner.

Parties are directed to appear before the Labour Court at Jalandhar on 4.5.2007.

Order passed is subject to payment of costs of Rs.4000/- by the petitioner to the respondent workman.

(Jasbir Singh)
Judge

January 23, 2007 **(Baldev Singh)**
gk **Judge**